

be required to have MRFs that build to more than 2 years of debt service. Expenditures from the fund are made at HUD's sole discretion or in accordance with the mortgagor's MRF Schedule. Upon termination of insurance, the balance of the MRF shall be returned to the mortgagor, provided that all obligations to HUD have been met.

**§ 242.15 Limitation on refinancing existing indebtedness.**

(a) Some existing capital debt may be refinanced with the proceeds of a section 242-insured loan; however, the hard costs of construction and equipment must represent at least 20 percent of the total mortgage amount.

(b) In the case of a loan insured under Section 242/223(f), there is no requirement for hard costs. However, if there are hard costs, such costs must total less than 20 percent of the total mortgage amount.

[78 FR 8341, Feb. 5, 2013]

**Subpart B—Application Procedures and Commitments**

**§ 242.16 Applications.**

(a) *Application process*—(1) *Market need.* The approval process entails a determination of the market need of the proposal and stresses, on a market-wide basis, the impact of the proposed facility on, and its relationship to, other health care facilities and services (particularly other hospitals with mortgages insured under this part and hospitals that have a disproportionate share of Medicaid and uninsured patients or provide a substantial amount of charity care); the number and percentage of any excess beds; and demographic projections. Generally, Section 242 insurance may support start-up hospitals or major expansions of existing hospitals only if existing hospital capacity or services are clearly not adequate to meet the needs of the population in the service area.

(i) If the state has an official procedure for determining need for hospitals, HUD shall require that such procedure be followed before the application for insurance is submitted, and that the application document that

need has also been established under that procedure.

(ii) The following factors are relevant in evaluating market need for the project and should be addressed, as applicable, in the study of market need and feasibility submitted with the application. Because each hospital presents a unique situation, there is no formula or cutoff level that applies to all applications:

- (A) Service area definition;
- (B) Existing or proposed hospital;
- (C) Designation as sole community provider, Critical Access Hospital, or rural referral center;
- (D) Community-wide use rates (discharges and days/1000);
- (E) Statewide use rates (for benchmarking purposes);
- (F) Current population and 5-year projection by age cohort;
- (G) Staffed versus licensed beds;
- (H) Applicant hospital's occupancy rate;
- (I) Competitors' occupancy rates;
- (J) Outpatient volume;
- (K) Availability of emergency services;
- (L) Teaching hospital status;
- (M) Services offered by hospitals in the service area;
- (N) Migration of patients out of the service area;
- (O) Planned construction at other facilities in the region;
- (P) Historical market share by major service category;
- (Q) Disproportionate Share Hospital designation; and
- (R) Distance to other hospitals.

(2) *Operating margin and debt service coverage ratio.* (i) Hospitals with an aggregate operating margin of less than 0.00 when calculated from the three most recent annual audited financial statements are not eligible for Section 242 insurance, unless HUD determines, based on the financial data in those statements, that the hospital has achieved a financial turnaround resulting in a positive operating margin in the most recent year, calculated using classifications of items as operating or non-operating in accordance with guidance that shall be provided in written directives by HUD. In any event, HUD shall not issue an insurance commitment for any hospital in a turnaround